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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,362	09/12/2003	Ronald F. Gruia	11186STUS02C (NORT10-0035)	6761
33000	7590	06/02/2006		EXAMINER
DOCKET CLERK				GAUTHIER, GERALD
P.O. DRAWER 800889			ART UNIT	PAPER NUMBER
DALLAS, TX 75380			2614	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	: Application No.	Applicant(s)
	10/661,362	GRUIA ET AL.
	Examiner	Art Unit
	Gerald Gauthier	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 March 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 21-40 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claim(s) 21-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumas et al. (US 5,519,773) in view of Anisimov et al. (US 6,449,358 B1).

Regarding **claim(s) 21, 30, 39 and 40**, Dumas discloses a method of assigning a number of agents in a pool of agents to a preferred state and assigning a number of agents in the pool of agents to another state, where the preferred state is one of an inbound state and an outbound state and the other state is one of the outbound state and the inbound state (FIG. 1 and column 1, lines 6-7), the method comprising:

determining a first number of agents for assignment to the preferred state based on an expected call rate (column 3, lines 11-26);

determining a second number of agents for assignment to the preferred state at a first time based on a first call rate sampled at the first time, and assigning the second number of agents to the preferred state (column 3, lines 11-26);

determining a third number of agents for assignment to the other state at the first time based on the magnitude between the first number of agents and the second number of agents, and assigning the third number of agents to the other state (column 3, lines 46-53);

receiving a second call rate sampled at a second time (column 3, lines 28-33);

determining a fourth number of agents for assignment to the preferred state at the second time based on the received second call rate sampled at the second time (column 3, lines 54-59); and

changing the number of agents assigned to the preferred state by an amount equal to the magnitude between the second number and the fourth number (column 3, lines 60-67).

Dumas fails to disclose assigning agents for inbound and outbound calls.

However, Anisimov teaches assigning agents for inbound and outbound calls (column 14, line 65 to column 15, line 10).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Dumas using the teaching of balancing input and output calls as taught by Anisimov.

This modification of the invention enables the system to assign agents for inbound and outbound calls so that the user would have access to the call distribution system.

Regarding **claim(s) 22 and 31**, Dumas discloses a method, wherein the preferred state is the inbound state (column 3, lines 11-26).

Regarding **claim(s) 23 and 32**, Dumas discloses a method, wherein the first number of agents for assignment to the preferred state is based on a grade of service specification (column 4 lines 15-21).

Regarding **claim(s) 24 and 33**, Dumas discloses a method, wherein the grade of service specification comprises a probability that an inbound call will be in a queue for a time longer than a specified time period (column 4, lines 15-21).

Regarding **claim(s) 25 and 34**, Dumas discloses a method, wherein the first number of agents for assignment to the preferred state is based on an average call duration (column 4, lines 53-65).

Regarding **claim(s) 26 and 35**, Dumas discloses a method, further comprising changing the number of agents assigned to the other state by an amount equal to the magnitude between the second number and the fourth number (column 4, lines 53-65).

Regarding **claim(s) 27 and 36**, discloses a method, further comprising:  
receiving agent activity information (column 3, lines 11-26); and  
if changing of the number of agents assigned to the preferred state indicates a decrease in the number of agents assigned to the preferred state, reassigning a number of idle ones of the number of agents assigned to the preferred state to the other state (column 3, lines 11-26).

Regarding **claim(s) 28 and 37**, Dumas discloses a method, further comprising:  
receiving a third call rate sampled at a third time (column 3, lines 11-26);

determining a fifth number of agents for assignment to the preferred state at the third time based on the received third call rate sampled at the third time (column 3, lines 11-26); and

changing the number of agents assigned to the preferred state by an amount equal to the magnitude between the fourth number and the fifth number (column 3, lines 11-26).

Regarding **claim(s) 29 and 38**, Dumas discloses a method, further comprising:

determining a rate of change between the call rate at the first time and the call rate at the second time (column 3, lines 11-26); and

adaptively altering an update interval for call rate sampling (column 4, lines 52-65).

#### ***Response to Arguments***

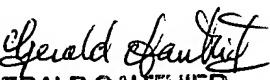
5. Applicant's arguments with respect to **claim(s) 21-40** have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
GERALD GAUTHIER  
PATENT EXAMINER

GG  
May 17, 2006

Gerald Gauthier  
Examiner  
Art Unit 2614